

**In re: JOHN CARL STEPHENS, d/b/a CARL STEPHENS.
P&S Docket No. D-00-0009.
Decision and Order filed September 28, 2000.**

Andrew Y. Stanton, for Complainant.
Respondent, Pro se.
Decision and Order issued by Dorothea A. Baker, Administrative Law Judge.

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 *et seq.*) by a complaint filed by the Acting Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Respondent willfully violated the Act.

Copies of the complaint and the Rules of Practice (7 C.F.R. § 1.130 *et seq.*) governing proceedings under the Act were served upon Respondent by certified mail. Respondent was informed in a letter of service that an answer should be filed pursuant to the Rules of Practice and that failure to answer would constitute an admission of all the material allegations contained in the complaint.

Respondent has failed to file an answer within the time prescribed in the Rules of Practice, and the material facts alleged in the Complaint and Notice of Hearing, which are admitted by Respondent's failure to file an answer, are adopted and set forth herein as findings of fact.

This Decision Without Hearing by Reason of Default, therefore, is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. John Carl Stephens, d/b/a Carl Stephens (hereinafter referred to as "Respondent"), is an individual whose business mailing address is P.O. Box 513, Irwinville, Georgia 31760.

2. Respondent was at all times material herein:

(a) Engaged in the business of a market agency, buying livestock on a commission basis, and a dealer, buying and selling livestock for his own account; and

(b) Registered with the Secretary of Agriculture as a market agency to buy livestock on a commission basis and as a dealer to buy livestock in commerce for his own account.

3. As more fully set forth in paragraph II of the complaint, Respondent, in connection with his operations subject to the Act, purchased livestock and in purported payment therefor, issued checks which were returned unpaid by the bank upon which they were drawn because Respondent did not have and maintain sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented, purchased livestock and failed to

pay, when due, the full purchase price of such livestock, and failed to pay for livestock.

Conclusions

By reason of the facts alleged in Finding of Fact 3 herein, Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).

Order

Respondent, John Carl Stephens, d/b/a Carl Stephens, his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the Act, shall cease and desist from:

1. Issuing insufficient funds checks in payment for livestock purchases;
2. Failing to pay the full purchase price for livestock purchases; and
3. Failing to pay, when due, the full purchase price for livestock purchases.

Respondent is suspended as a registrant under the Act for a period of five (5) years. Provided, however, that upon application to Packers and Stockyards Programs, a supplemental order may be issued terminating the suspension at any time after 90 days, upon demonstration that all livestock sellers or shippers identified in the complaint have been paid in full. Provided, further, that this order may be modified upon application to Packers and Stockyards Programs to permit the salaried employment of Respondent by another registrant or packer after the expiration of 90 days of this suspension term and upon demonstration of circumstances warranting modification of the order.

The provisions of this order shall become effective on the sixth day after service of this order on Respondent.

Copies of this decision shall be served upon the parties.

[This Decision and Order became final November 6, 2000.-Editor]
